

REGULATION HISTORY

TYPE OF REGULATION: Fuel Tax
REGULATIONS: Adopt 1125, *Two-Party Exchange* and 1423, *Two-Party Exchange*
Amend 1123, *Supplier* and 1420, *Supplier*
PREPARATION: Arlo Gilbert
LEGAL CONTACT: Carolee Johnstone

SUMMARY OF REGULATORY CHANGE

Current law provides that primary liability for motor vehicle fuel tax under the Motor Vehicle Fuel Tax Law and primary liability for diesel fuel tax under the Diesel Fuel Tax Law is imposed on, among others, the position holder in a terminal and the refiner, on removal of motor vehicle fuel or diesel fuel from the terminal or refinery, if the fuel is removed at the rack. The Motor Vehicle Fuel Tax Law and the Diesel Fuel Tax Law contain provisions, in sections 7372, subdivision (b) and 60063, subdivision (b), respectively, that permit the Board to relieve the position holder or refiner from primary liability for payment of the motor vehicle fuel or diesel fuel tax imposed on them and to hold another person primarily liable for the tax, under certain conditions. The Board is permitted to adopt regulations it deems appropriate in order to implement this provision.

Regulation 1125, Two-Party Exchange, and Regulation 1423, Two-Party Exchange, are proposed to be promulgated to implement section 7372 of the Motor Vehicle Fuel Tax Law and section 60063 of the Diesel Fuel Tax Law, respectively. The regulations are proposed to provide a general description of a two-party exchange and the reasons for a two-party exchange, to define a two-party exchange, delivering supplier, and receiving supplier, to explain the conditions that must be met in order to relieve the delivering supplier of the fuel tax liability, and to explain the reporting requirements of the terminal operator, delivering supplier, and receiving supplier.

The amendments to Regulation 1123, Supplier, and Regulation 1420, Supplier, are proposed to clarify that the delivering supplier, either the position holder or the refiner, under a two-party exchange remains primarily liable for the tax due on removal of motor vehicle fuel or diesel fuel from the terminal or refinery rack if the requirements for a two-party exchange pursuant to Regulation 1125 and Regulation 1423, respectively, are not met.

CURRENT REGULATIONS HISTORY

June 27, 2006: Public Hearing
May 13, 2006: 45-Day public comment begins.
May 12, 2006: Notice of public hearing published in California Regulatory Notice Register, Register 2006, No. 19-Z, e-mailed and US mail to interested parties.
March 28, 2006: Board authorized publication. (Vote 5-0)
January 26, 2006: 2nd Interested Parties Meeting
December 7, 2005: 1st Interested Parties Meeting

Sponsor: Board Staff

Support: None
Oppose: None